



JFW

Atty. Dkt. No. 041194-0106

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Birgit C. HOFMANN  
Title: New Guinea Impatiens Plant  
Named 'Fisupnic Chersweet'  
Appl. No.: 10/829,351  
Filing Date: April 22, 2004  
Examiner: Not Yet Assigned  
Art Unit: 1661

**CLAIM FOR CONVENTION PRIORITY**

Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

Sir:

The benefit of the filing date of the following prior foreign application filed in the Canadian Plant Breeders' Rights Office on April 29, 2003, is hereby requested, and the right of priority provided in 35 U.S.C. §119 is hereby claimed.

In support of this claim, filed herewith are certified copies from the Canadian Food and Inspection Agency, Plant Breeders' Rights Office:

- CANADIAN PLANT BREEDER'S RIGHTS APPLICATION NO. 03-3586 'Fisupnic Chersweet' filed April 29, 2003.

Respectfully submitted,

*M. Lub M. Martin*  
By *Reg. No. 34,717*

Date June 8, 2004

FOLEY & LARDNER, LLP  
Customer Number: 22428

\*22428\*

22428

PATENT TRADEMARK OFFICE  
Telephone: (202) 672-5483  
Facsimile: (202) 672-5399

*bc*

Richard C. Peet  
Attorney for Applicant  
Registration No. 35,792



Canadian Food Inspection Agency Agence canadienne d'inspection des aliments

Plant Breeders' Rights Office  
59 Camelot Drive  
Ottawa, Ontario  
K1A 0Y9  
Tel.: (613)225-2342  
Fax: (613)228-6629

April 28, 2004

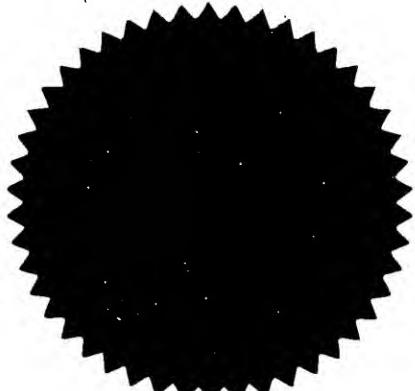
**CERTIFIED COPIES OF DOCUMENTS RELATING  
TO THE APPLICATION FOR A GRANT OF PLANT BREEDER'S RIGHTS  
FOR THE NEW GUINEA IMPATIENS VARIETY, 'Fisupnic Chersweet'**

As Commissioner of Plant Breeders' Rights, I hereby certify that the documents set out below are true copies of the documents originally filed in our Office on April 29, 2003 by Florfis AG for the above-mentioned variety.

Application Number: 03-3586  
Proposed denomination: 'Fisupnic Chersweet'

*Sandy Marshall*  
for Valerie Sisson  
Commissioner  
Plant Breeders' Rights

Att. : Plant Breeders' Rights Application form (5 pages)  
Evidence Establishing the Legal Representative (1 page)  
Authorization of Agent (1 page)



Canada

# PLANT BREEDERS' RIGHTS APPLICATION FORM

(SEE INSTRUCTIONS ON PAGE 3-4)

THE INFORMATION ON THIS DOCUMENT IS REQUIRED BY THE GOVERNMENT OF CANADA FOR THE PURPOSE OF DETERMINING IF A PLANT BREEDERS' RIGHT IS TO BE GRANTED. THE APPLICATION IS HELD CONFIDENTIAL PRIOR TO PUBLICATION OF PARTICULARS IN THE PLANT VARIETIES JOURNAL. SOME INFORMATION MAY BE ACCESSIBLE OR PROTECTED AS REQUIRED UNDER THE PROVISIONS OF THE ACCESS TO INFORMATION ACT. INFORMATION THAT COULD CAUSE YOU OR YOUR ORGANIZATION INJURY IF RELEASED IS PROTECTED FROM DISCLOSURE AS DEFINED IN SECTION 20 OF THE ACCESS TO INFORMATION ACT.

APPFORM/01-11-01

1. NAME OF APPLICANT (AS IT IS TO APPEAR ON THE CERTIFICATE)  FLORFIS AG	3. PROPOSED DENOMINATION (THE DENOMINATION OR ANY PART OF THE DENOMINATION MUST NOT BE TRADEMARKED IN CANADA)  Fisimp 225 IS THIS AN EXPERIMENTAL DESIGNATION? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
2. ADDRESS OF APPLICANT  Parkstrasse 33, 4102 Binningen, Switzerland PHONE NO. (INCLUDE AREA CODE): FAX NO. (IF AVAILABLE):	4. OTHER DESIGNATIONS(S)  <input checked="" type="checkbox"/> YES (IF "YES" GIVE DESIGNATION AND COUNTRY OF USE) <input type="checkbox"/> NO FISUPNIC CHERSWEET
5. NAME OF AGENT  Mr. Eric Voogt, Westcan Greenhouses Ltd.	
6. ADDRESS OF AGENT 2527 - 210th Street Langley, British Columbia, V2Z 2A9  PHONE NO. (INCLUDE AREA CODE)	(604) 530-9298 FAX NO. (IF AVAILABLE) (604) 530-9966
7. NAME AND ADDRESS OF BREEDER, IF DIFFERENT FROM APPLICANT  Ms. Birgit HOFMANN, Gassenweg 29, 56170 Bendorf, Germany  PHONE NO. (INCLUDE AREA CODE)	FAX NO. (IF AVAILABLE)
8. GENUS AND SPECIES NAME Impatiens New-Guinea hybrid	9. FAMILY NAME (BOTANICAL) Balsaminaceae
10. COMMON NAME New-Guinea Impatiens	

11. HAS AN APPLICATION FOR PROTECTION BEEN FILED OUTSIDE OF CANADA?

YES (IF "YES" GIVE NAMES OF COUNTRIES AND DATES) Switzerland, on  
 NO

12. HAS THE VARIETY BEEN GRANTED RIGHTS IN OTHER COUNTRIES?

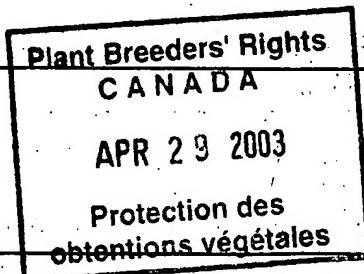
YES (IF "YES" GIVE NAMES OF COUNTRIES AND DATES)  
 NO

13. IS PRIORITY CLAIMED IN CANADA WITH RESPECT TO AN APPLICATION(S) MADE OUTSIDE OF CANADA? (SEE INSTRUCTIONS)

YES (IF "YES" GIVE NAME OF COUNTRY AND DATE)  
 NO

14. HAS THE VARIETY BEEN SOLD OUTSIDE OF CANADA?

YES (IF "YES" GIVE NAMES OF COUNTRIES AND DATES)  
 NO



15. HAS THE VARIETY BEEN SOLD IN CANADA?

- YES (IF YES GIVE DATES)  
 NO

16. IS AN EXEMPTION FROM COMPULSORY LICENSING REQUESTED?

- YES (IF YES GIVE REASONS)  
 NO

17L CHECK APPROPRIATE BOX FOR EACH ITEM SUBMITTED FOR FILING (SEE INSTRUCTIONS)

- A. ORIGIN AND BREEDING HISTORY OF THE VARIETY  
 B. STATEMENT OF UNIFORMITY AND STABILITY  
 C. DISTINCTNESS STATEMENT  
 D. SAMPLE OF PROPAGATING MATERIAL (WHERE APPLICABLE)  
 E. METHODS FOR MAINTAINING THE VARIETY  
 F. EVIDENCE ESTABLISHING THE LEGAL REPRESENTATIVE AS THE APPLICANT (WHERE APPLICABLE)  
 G. AUTHORIZATION OF AN AGENT (WHERE APPLICABLE)

17L CHECK APPROPRIATE BOX FOR EACH ITEM SUBMITTED FOR EXAMINATION (SEE INSTRUCTIONS)

- H. REQUEST FOR EXAMINATION  
 I. OBJECTIVE DESCRIPTION FORM  
 J. RESULTS FROM COMPARATIVE TESTS AND TRIALS  
 K. COMPARATIVE PHOTOGRAPHS (PRINT AND SLIDE)

18. CHECK APPROPRIATE BOX FOR FEE SUBMISSION(S) (PAYABLE IN CANADIAN FUNDS ONLY; CHEQUES TO BE MADE PAYABLE TO: RECEIVER GENERAL FOR CANADA)

- FILING FEE (\$250)  
 EXAMINATION FEE (\$750)  
 PROTECTIVE DIRECTION FEE (\$50)  
 GRANT OF RIGHT FEE (\$500)  
 CLAIMING PRIORITY FEE (\$50)  
 OTHER \_\_\_\_\_

**TO BE COMPLETED BY APPLICANTS/AGENTS REQUESTING A PROTECTIVE DIRECTION**

(A PROTECTIVE DIRECTION FEE OF \$50 MUST BE ENCLOSED TO VALIDATE THIS SIGNATURE)

I/We request that a protective direction be given in respect of the plant variety covered by this application. I/We undertake while the protective direction is in force, that no propagating material of the plant variety will be sold in Canada by me/us, or with my/our consent, except as provided in subsection 19(2) of the Plant Breeders' Rights Act, in the period between the making of this application and the time when the Plant Breeders' Right is granted, or refused.

Signature of applicant \_\_\_\_\_ Date \_\_\_\_\_

**TO BE COMPLETED BY ALL APPLICANTS/AGENTS**

I/We am(are) the owner(s) or acting on behalf of the owner(s) of this novel plant variety, and believe that the variety is distinct, uniform and stable as required in subsection 4(2) of the Plant Breeders' Rights Act. I/We understand that test results must be carried out using acceptable scientific procedures. I/We certify that the sample of propagating material supplied (where applicable) is representative of the variety.

Making a false representation is an offence and may result in a loss of the Plant Breeders' Right and prosecution.

SIGNATURE(S)	CAPACITY OR TITLE	DATE
H. Schnyder Hiltrud Schnyder-Schmid (please print name): AUS 1003	Managing director	10 April 2003

PBS 03 BRA

FOR OFFICIAL USE ONLY

PBRO APPLICATION NO.: SCHNIDER AUS 1003	FILING OF APPLICATION:	DATE:	TIME: _____ a.m. _____ p.m.
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**IMPATIENS 'Fisimp 225'/'Fisupnic Chersweet'**

**17A) Origin and breeding history of the variety**

'Fisimp 225' was derived from a hybridization made in 2000, and was selected as one seedling within the offspring in the spring of 2001.

The female parent was the variety 'Alexis' and the male parent was the seedling no. K-00-6162-2.

The hybridization was made in Hillscheid, Germany, and the seed was taken to Galdar, Gran Canaria, Spain, where the first selection of the seedlings was conducted.

Cuttings from the selected seedling were taken back to Hillscheid for further selection and trial cultivation.

The selection criteria were the flower shape (large, flat and almost round), the begin of flowering (about medium), and over medium to tall sized and well-branched plant habit – in combination with a range of flower colours.

**17 B and E) Statement of uniformity and stability**

**Methods for maintaining the variety**

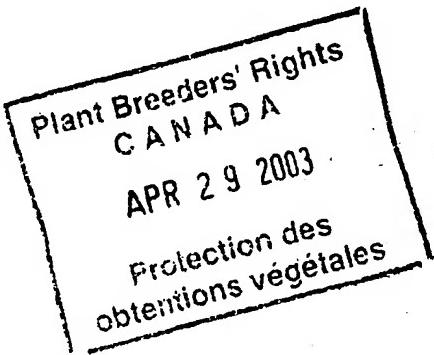
Variety 'Fisimp 225' originated from a single seedling that was propagated asexually. It is a uniform clone without genetical variation. Off-types have not been observed so far.

The variety will be multiplied by shoot tip cuttings from selected stock plants that appear to be uniform and stable in Galdar, Gran Canaria, Spain.

**17 C) Distinctness statement**

The most similar variety is 'Fisimp 130, commercially 'Sonic Sweet Cherry'.

In comparison to 'Fisimp 130', 'Fisimp 225' has a more vigorous growth habit, and larger flowers with a more distinct, red, star-shaped pattern.



**APPENDIX VI  
LEGAL REPRESENTATIVE STATEMENT / ASSIGNMENT BEFORE THE ISSUE OF  
PLANT BREEDERS' RIGHTS**

The following letter may serve as a standard form to be completed prior to application as evidence establishing the applicant as the legal representative, or after application when an assignment of a new variety occurs prior to a grant of rights.

I, ..... Birgit Hofmann ..... whose full post office address is  
..... Gassenweg 29 .....  
..... 56170 Bendorf .....  
..... Germany .....

in consideration of \$..... the receipt of which is hereby acknowledged, do hereby sell and assign, effective the ..... day of ..... 19..... ,

to ..... FLORFIS AG ..... whose full post office address is  
..... Parkstrasse 33 .....  
..... 4102 Binningen .....  
..... Switzerland .....

my interest in Canada for the ..... Impatiens ..... variety entitled ...F.i.s.i.m.p...225.....  
(crop kind) ..... (denomination and application no.)

As described and claimed in my application for Plant Breeders' Rights and to all my corresponding right, title and interest in and to any grant of rights which may issue therefor.

Signed at ..... Hillscheid, Germany .....  
(City or town) ..... (Country)

this ..... 4th ..... day of .... April ..... 19..... 2003

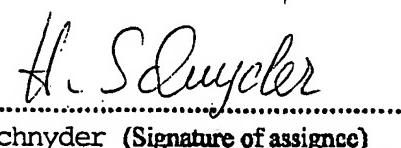
Witness ..... I. Wickel .....  
I. Wickel

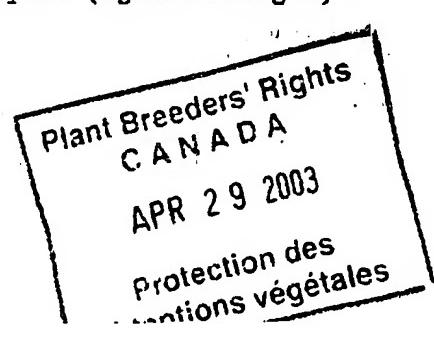
  
B. Hofmann (Signature of assignor)

Signed at Binningen, Switzerland .....  
(City or town) ..... (Country)

this ..... 10th ..... day of .... April ..... 19..... 2003

Witness ..... Dr. M. Unkelbach .....  
Dr. M. Unkelbach

  
H. Schnyder (Signature of assignee)



AGRICULTURE AND AGRI-FOOD CANADA

PLANT BREEDERS' RIGHTS OFFICE

AUTHORIZATION OF AGENT

We hereby authorize:

Eric VOOGT  
Westcan Greenhouses Ltd.  
2527 - 210th Street,  
Langley, British Columbia  
V2Z 2A9

to sign any application, notice or other document  
given, delivered to or served upon the Controller  
in accordance with Plant Breeders' Rights Regulations  
and to make all attendances upon the Controller  
relating to the plant variety:

Impatiens 'Fisimp 225'

Date: Binningen, April 10, 2003

Signature:

H. Schnyder

FLORFIS AG  
Parkstrasse 33  
4102 Binningen  
Switzerland

